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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ARISTOCRAT TECHNOLOGIES
AUSTRALIA PTY LIMITED and
ARISTOCRAT TECHNOLOGIES, INC.,

Plaintiffs,

v.

INTERNATIONAL GAME TECHNOLOGY
and IGT,

Defendants.

No. C-06-03717 RMW

CASE MANAGEMENT ORDER

[Re Docket Nos. 441, 442]

As discussed at the hearing, and as informed by the parties' recent submissions, the court enters the following case management order: The court's additions to the parties' joint proposal are emphasized.

1. The *Markman* claim construction hearing and tutorial shall begin at 9:00 a.m. on March 18, 2009. The parties shall begin the hearing with a non-argumentative technical tutorial of approximately 45 minute per side by counsel and/or experts.
2. Defendants may file their motion for summary judgment of noninfringement based upon the *Muniauction* case. *The motion must be noticed for a hearing in compliance with Civil L.R. 7-2(a)'s 35-day notice provision, i.e., the motion will not be heard at the claim construction hearing.*

3. Aristocrat may file a Rule 56(f) request for discovery in response to defendants' motion for summary judgment of non-infringement, after which Aristocrat may initiate such discovery, if any, as the Court permits. No discovery shall take place until an Order permitting discovery is entered.
4. Following the *Markman* hearing on March 18, 2009, the Court will conduct a further Case Management Conference regarding other matters, including setting a trial date. The parties shall be prepared to discuss case scheduling and trial dates at that time.
5. *The court will hear argument on IGT's motion for summary judgment of invalidity due to indefiniteness (docket no. 163) at the March 18 claim construction hearing because considering the motion at the same time as claim construction is efficient.*
6. *The court requests that the parties promptly submit chambers copies of all of the claim construction briefing, indefiniteness briefing, and all supporting materials to enable the court to prepare for the March 18 hearing.*

The court is disappointed that the parties were unable to reach agreement on the case management order and is hopeful that it will not have to resolve such disputes in the future.

DATED: 2/19/2009



RONALD M. WHYTE
United States District Judge

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13 **Dated:** 2/19/2009

14 **TSF**
Chambers of Judge Whyte